IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL JURISDICTION

CONTEMPT PETITION NO.11 OF 2005

IN

SUIT NO.1321 OF 1988

1.Raymond H.D'Lima & Anr. ... Petitioners (Org.Applicants)

V/s

1.City Survey Officer(V) & Ors. ... Respondents/ Contemnors

Mr. C.S. Balsara along with Raju Gawade and Mihir Mody i/b Ashar & Co.

Milind More, AGP for respondents.

Coram : A.S. Aguiar, J.

Date : 11th February,2005

P.C.

1 Respondents file affidavit in rely of respondents/contemnors viz. City Survey Officer No.V, Malad and City Survey Officer No.X, Goregaon. None for Court Receiver.

2 It is the contention of petitioner that Court Receiver is only a formal party and no order is sought against the Court Receiver. The petitioner alleges contempt of the order of this court dated 5/5/2004 directing the respondents to carry out survey of plot of land and

demarcate boundary at site. The learned counsel for petitioner contends that the respondents have ignored the directions given in an order dated 10/4/2002(exhibit-C2) to the court receiver to effect survey of entire properties involved on the basis of reference i.e Government village plan by taking into account all the relevant documents including Government village plan.By the said order dated 10/4/2002 Court Receiver was directed to take assistance from the respondents for carrying out survey of entire properties. In the said order dated 10/4/2002 it was clarified that Court Receiver shall take assistance of all the the three respondents in conducting his survey and said respondents were directed to co-operate and assist the Court Receiver in that regard. However, learned counsel for petitioner states that the order dated 5/5/2004, according to him, exonerates the Court Receiver from his liability of carrying out survey of the properties as it is the duty of District Inspector of Land Records to carry out the survey of entire properties. The learned advocate for respondents states that respondents are willing to carry out survey as per an order dated 5/5/2004. However, petitioner has been obstructing the authorities i.e. respondents from carrying out demarcation of boundary as stated in paragraph-13 of affidavit in reply of respondents.The learned counsel for respondents submits that respondents are now ready to carry out survey and demarcation of boundary as per the directions given by order dated 10/4/2002 of this court

(Kakade,J.).

3 It is clarified that the Court Receiver who is in possession of properties will give necessary direction to the respondents for carrying out survey and demarcation of boundary at site in the presence of representative of Court Receiver. The respondents will also take into account the proposal for rectification/amendment dated 10/4/1994 submitted to the Superintendent of Land Records,MSD in respect of the common boundary of village Malad, and Valnai.The survey and demarcation of boundary at sites to be carried out within a period of six weeks. With the above order, this contempt petition stands disposed off.

(A.S. Aguiar,J.)